

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

FADRIAN ANDREW SMITH,

Plaintiff,

v.

Case No. 06-C-700

**HEALTH SERVICE UNIT, Brown County Jail, and
BROWN COUNTY JAIL ADMINISTRATION,**

Defendants.

ORDER

On June 16, 2006, plaintiff Fadrian Smith, filed a *pro se* civil rights complaint under 42 U.S.C. § 1983. By order of July 13, 2006, the court granted the plaintiff's request for leave to proceed *in forma pauperis* and allowed him to proceed on a Fourteenth Amendment denial of medical care claim.

On November 7, 2006, the defendants filed a motion for sanctions including dismissal pursuant to Rules 37 and 41(b), Federal Rules of Civil Procedure. Court records indicate that the defendants' attorney mailed a copy of the motion and supporting brief and affidavit to the plaintiff on November 7, 2006. Under applicable court rules, the plaintiff should have filed a response to this motion on or before November 28, 2006. To date, the plaintiff has not filed any response to the defendants' motion.

By order of December 5, the court allowed the plaintiff extra time to file a response to the defendants' motion for sanctions and directed that any such response should

be filed on or before December 18, 2006. A copy of that order was mailed to the plaintiff at the Brown County Jail which was his last known address. However, on December 11, 2006, the court received a notification from plaintiff of his change of address. Thereafter, on December 13, 2006, the copy of the order that had been mailed to the plaintiff was returned to the court as "undeliverable."

Because it appears that plaintiff did not receive the court's order directing him to serve a response to the defendants' motion for sanctions by December 18, 2006, the court will grant the plaintiff an additional period of time to file a response. Such response must be filed by January 8, 2007. The plaintiff is further advised that, if he fails to file any response to the defendants' motion on or before January 8, 2007, this action may be dismissed with prejudice, pursuant to Civil L.R. 41.3 (E.D. Wis.) (copy enclosed) and Fed. R. Civ. P. 41(b). The plaintiff is reminded that he is required to serve a copy of each of his submissions in this case on opposing counsel.

ORDER

IT IS THEREFORE ORDERED that the plaintiff's response to the defendants' motion for sanctions is now due on or before **January 8, 2007**.

Dated at Milwaukee, Wisconsin this ____ day of December, 2006.

BY THE COURT:

s/Rudolph T. Randa

HON. RUDOLPH T. RANDA

Chief Judge

Civil L.R. 41.3 Dismissal for Lack of Diligence

Whenever it appears to the Court that the plaintiff is not diligently prosecuting the action, the Court may enter an order of dismissal with or without prejudice. Any affected party can petition for reinstatement of the action within 20 days.